

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

YULIO CERVINO-HERNANDEZ AND
ALEXANDER CASTELLANO-BENITEZ,

Defendants.

4:15CR3114

MEMORANDUM AND ORDER

Defendant Alexander Castellano-Benitez has moved to continue the pretrial motion deadline, (filing no. 55), 30 days because the defendant has recently received additional discovery from the government and needs to review that discovery before deciding if pretrial motions should be filed. The motion to continue is unopposed by the Government. Based on the showing set forth in the motion, the court finds the motion should be granted. Accordingly,

IT IS ORDERED:

- 1) Defendant's motion to continue, (filing no. 55), is granted in part and denied in part. The pretrial motion deadline will be continued 14 days.
- 2) **As to both defendants**, pretrial motions and briefs shall be filed on or before March 23, 2016.
- 3) **As to both defendants**, trial of this case remains continued pending resolution of any pretrial motions filed.
- 4) The ends of justice served by granting the motion to continue outweigh the interests of the public and the defendant in a speedy trial, and
 - a. **As to both defendants**, the additional time arising as a result of the granting of the motion, the time between today's date and March 23, 2016, shall be deemed excludable time in any computation of time under the requirements of the Speedy Trial Act, because although counsel have been duly diligent, additional time is needed to adequately prepare this case for trial and failing to grant additional

time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(1), (h)(6) & (h)(7).

- b. Failing to timely file an objection to this order as provided in the local rules of this court will be deemed a waiver of any right to later claim the time should not have been excluded under the Speedy Trial Act.
- 5) An evidentiary hearing on defendant Yulio Cervino-Hernandez's motion to suppress, (filing no. 47), will be held before the undersigned magistrate judge on March 30, 2016, at 2:00 p.m. in Courtroom no. 2, United States Courthouse, Lincoln, Nebraska. Three hours have been set aside for this hearing.
- 6) The defendant, defense counsel, and counsel for the government shall be present at this hearing.
- 7) Pursuant to NECrimR 12.5, copies of all exhibits expected to be offered into evidence during the hearing, except those to be used for impeachment only, shall be delivered to the chambers of the undersigned at least twenty-four (24) hours before the hearing and, at the outset of the hearing, to the extent reasonably possible, the parties shall provide the undersigned and the courtroom deputy with a written list of all witnesses the parties expect to call.

Dated this 11th day of March, 2016

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge